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ANDREW J. PECK

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November 13, 2007

VIA FACSIMILEMEMO ENDORSED *p2*

Magistrate Andrew J. Peck  
United States Magistrate Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1370  
New York, New York 10007-1312

*07 Civ. 7810 (AJP) 26 CV 6415*Re: Dangerfield v. Anthony ("Babe") Bevacqua and Rodney Dangerfield, Inc.

Dear Magistrate Peck:

This firm represents Joan Dangerfield in the above-captioned action. We write Your Honor to request a two-week extension of the date on which Plaintiff is to oppose defendants' motion for partial summary judgment. For the reasons set forth below, Plaintiff respectfully requests that the extension be granted.<sup>1</sup>

First, defendants' motion is premature, including because discovery is not yet complete. Indeed, as Your Honor made clear at the initial conference "[y]ou can't move for summary judgment until there's discovery". (10/3/07 Tr. at 3.) While defendants have produced much of the requested documents, they have refused to produce any documentation concerning the origination of the purported loan to Mr. Bevacqua. Instead, they have moved for summary judgment without including those documents and before any depositions have taken place. Thus, Plaintiff has not had an opportunity to cross-examine Mr. Bevacqua concerning the facts surrounding the loan. The Court's admonition of October 3rd, therefore, seems to apply with equal force today.

Second, an extension should be granted so that the parties can promptly focus their energy and resources on settlement (instead of motion practice). Shortly after the parties' initial conference with the Court and immediately after this firm's insistence that defendants produce documents concerning when the loan was made, Mr. Bevacqua entered into a Note with the Company setting forth the terms of the loan and its repayment. As such, many of Ms. Dangerfield's initial concerns have been addressed and, rather than engage in litigation more costly than the damages sought, Ms. Dangerfield would prefer to re-focus her attention to settling her remaining claims as expeditiously as possible. Ms. Dangerfield, in fact, made an offer of settlement to defendants yesterday which defendants rejected without providing a counter-offer.

<sup>1</sup> Defendants' counsel has refused to consent to an extension of the opposition date.

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Notwithstanding defendants' response, Ms. Dangerfield would welcome the Court's intervention in an attempt to mediate her remaining claims. In the meantime, Plaintiff should not be obligated to incur unnecessary costs responding to defendants' motion. Thus, for this reason too, the two-week extension should be granted.

Finally, an extension of two-weeks will hardly disrupt the discovery schedule should the parties be unable to resolve Ms. Dangerfield's claims. Indeed, even if the parties table all discovery during the next two weeks in an attempt to resolve Ms. Dangerfield's claims, only deposition discovery remains. And the depositions that likely are to be noticed can all occur before the discovery deadline set by the Court.

For all the above-reasons, Ms. Dangerfield requests that a two-week extension be granted.

Respectfully submitted,



David Feuerstein

DF/fc

cc: John Becker, Esq.

**MEMO ENDORSED** 11/13/07

Extension granted to 11/26 (if Plaintiff  
works & works & Thanksgiving is, so  
be it). Dispute, comes with David  
his letter, in dispute counsel's 11/13  
letter, (under the dispute assignment post  
discovery) will be heard at the  
discovery scheduled 11/15/07. All parties  
should be prepared to bring up at  
the court.

SO ORDERED:

Hon. Andrew Jay Beck  
United States Magistrate Judge

**BY FAX**

# FAX TRANSMITTAL SHEET



**ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT**

Southern District of New York  
United States Courthouse  
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**Dated:** November 13, 2007

**Total Number of Pages:** 3

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## **CORRECTED TRANSCRIPTION:**

### **MEMO ENDORSED 11/13/07**

**Extension granted to 11/26 (if plaintiff wants to waste its Thanksgiving on this, so be it). The other issues raised in this letter and in defense counsel's 11/13 letter (including the implicit assumption that defendant's partial SJ motion somehow stays discovery) will be discussed at the previously scheduled 11/15 conference. The parties should be prepared to discuss settlement at the conf.**